



RE: Confidential -- For Settlement Purposes

Sanoff, Robert

to:

'Evans, Rachel (ENRD)'

04/10/2012 02:51 PM

Cc:

"Kautsky, Peter (ENRD)", Sarah Flanagan

Hide Details

From: "Sanoff, Robert" <RSS@foleyhoag.com>

To: "'Evans, Rachel (ENRD)'" <Rachel.Evans2@usdoj.gov>,

Cc: "'Kautsky, Peter (ENRD)'" <Peter.Kautsky@usdoj.gov>, Sarah

Flanagan/R2/USEPA/US@EPA

Rachel -- I've looked at your spreadsheet which clarified most of my questions. The spreadsheet makes clear that the last sentence in Background paragraph J is incorrect. That sentence reads: "For the purposes of this Consent Decree, EPA estimates that its response costs for the Site will total ~~approximately \$365.5~~16,812." In fact that is the total response costs estimate of which EPA is only 93% -- the remaining 7% is the State of NJ's. You can solve the problem simply by taking out the word "its" before "response costs" or you can give numbers for the EPA's share and the state's. Finally, although it doesn't affect CDE, I don't understand the basis for the percentages in paragraph 22 (which are not discussed in your spreadsheet).

Best regards,

Robby

From: Evans, Rachel (ENRD) [<mailto:Rachel.Evans2@usdoj.gov>]

Sent: Tuesday, April 10, 2012 11:20 AM

To: Sanoff, Robert; Kautsky, Peter (ENRD)

Cc: Ettinger, Jonathan; Flanagan.Sarah@epamail.epa.gov

Subject: RE: Confidential -- For Settlement Purposes

Robby --

The short answer to your question is that the percentages paid by the federal PRPs differ from the percentages being paid by CDE because the federal PRPs are paying a premium on EPA's response costs, but not on the NRD, while CDE is not paying any premium.

To assist you and Jonathan in your analysis of the math underlying the consent decree, I have attached our worksheet which we used to calculate the numbers. We hope it will clear up any lingering questions, but are happy to discuss if it does not.

Best regards,

Rachel

Rachel K. Evans

Trial Attorney

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From: Sanoff, Robert [<mailto:RSS@foleyhoag.com>]
Sent: Monday, April 09, 2012 2:07 PM
To: Kautsky, Peter (ENRD)
Cc: Ettinger, Jonathan; Evans, Rachel (ENRD); Flanagan.Sarah@epamail.epa.gov
Subject: Confidential -- For Settlement Purposes

Peter - As I mentioned, I'm not sure I follow the allocation of payments by CDE and the federal PRPs. The following table shows the total response costs and damages estimated for three categories (EPA, NRD and NJ), the dollars being paid respectively by CDE and the Federal PRPs towards each of those categories, the percentages of those categories being paid by CDE and the Federal PRPs, and the allocation of settlement payments by CDE and the Federal PRPs among each of the three categories.

	% of Total Paid			Allocation	
	Total \$\$	CDE \$\$	Fed PRP \$\$	CDE	Fed PRPs
EPA	\$365,516,812	\$271,944,508	\$13,049,281	74.40%	3.57%
NRD	\$93,800,000	\$75,040,000	\$2,251,200	80.00%	2.40%
NJ	??	\$20,468,941	\$982,204	??	??
Total		\$367,453,449	\$16,282,685		
				100.00%	100.00%

Why is the % of the total costs in each category being paid by CDE (and by the Federal PRPs different)? And why is the allocation among the categories different between CDE and the Federal PRPs? Also, the percentages of the total for each category being paid by CDE based on the numbers set forth in paragraphs 6-8 of the draft CD doesn't really jive with the percentages listed in paragraph 22. What am I missing?

Best regards,
Robby

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